

THE NEWS OF NORFOLK ON PAGES TWO, THREE AND FIVE.

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COURT DECISIONS.

Notes of Cases Recently Decided,
Which are of Interest to
Our People.

DIGESTED BY W. B. MARTIN.
(Exclusively for Virginian-Pilot.)

SOUTHERN R. CO. V. BRUCE.

Supreme Court of Appeals of Virginia,
April 6, 1899.

IT IS THE DUTY OF A RAILROAD COMPANY TO USE REASONABLE CARE TO AVOID INJURY TO ONE UPON ITS RIGHT OF WAY AS A LICENSEE, AND THE LICENSEE MUST TAKE ORDINARY PRECAUTIONS FOR HIS OWN SAFETY. UPON THE DEFENCE OF CONTRIBUTORY NEGLIGENCE THE QUESTION IS NOT WHETHER PLAINTIFF'S NEGLIGENCE CAUSED, BUT WHETHER IT CONTRIBUTED TO, THE INJURY. THE BURDEN OF PROVING CONTRIBUTORY NEGLIGENCE IS ON DEFENDANT, BUT IF PLAINTIFF'S EVIDENCE RAISES A PRESUMPTION OF CONTRIBUTORY NEGLIGENCE, THE BURDEN IS IMMEDIATELY UPON HIM TO REBUT IT.

This was a suit brought by the administrator of Bruce against the railroad company for the death of plaintiff's intestate. Deceased was a young man in full possession of his faculties who was walking upon the track of the railroad company near North Danville. He did not look back, stop or listen for a train, but walked upon the track when he could have safely walked upon a walkway along the right of way. There was a curve in the track behind him and the river made hearing more difficult. Others nearer the curve than he was saw and heard the train, and he paid no attention to the warning cry of a pedestrian a few feet from him, who got out of the way of the train, and he was run over and killed. There was a verdict and judgment for \$5,250 for plaintiff in the lower court and defendant appealed.

The court says: The instructions complained of told the jury that the burden of proving contributory negligence on the part of plaintiff's intestate was upon the defendant company, without any sort of qualification or suggestion to them even, that if negligence on his part contributing to his injury was disclosed by plaintiff's evidence, or could be fairly inferred from all the facts and circumstances of the case, he could not recover.

"In all courts, where there is any evidence from which an inference of contributory negligence might reasonably be drawn, the court must instruct the jury that the plaintiff cannot recover if his negligence contributed to produce the injury, in the manner herebefore stated," that is, by the want of ordinary care on the part of the plaintiff, or his intestate, to avoid injury.

The rule that contributory negligence is a matter of defence, and that the burden of establishing it is upon the defendant, obtains in the courts of many of the States of the Union. Virginia included, but in all these jurisdictions, wherever contributory negligence is held a matter of defence, whenever the plaintiff's own case raises the presumption of contributory negligence the burden of proof is immediately upon him. In such a case it devolves upon the plaintiff, as of course, to clear himself of the suspicion of negligence that he himself created. He must make out his case in full, and where the circumstances attending the injury were such as to raise a presumption against him in respect to the exercise of due care, the law requires him to establish his freedom from contributory fault.

"The burden of proving contributory negligence on the part of the plaintiff is on the defendant, unless it is disclosed by the plaintiff's evidence, or can be fairly inferred from all the circumstances of the case." It is conceded that plaintiff's intestate when upon its right of way where he was killed, was there as a licensee, whereby the company was charged with the duty of taking reasonable care to avoid injury to him, but it was a duty resting upon the deceased also to take ordinary precautions for his own safety, even if there was negligence on the company's part. The question to be determined in every case of this character is, not whether the plaintiff or plaintiff's intestate's negligence caused, but whether it contributed to, the injury of which complaint is made.

We are of opinion that the negligence of plaintiff's intestate contributing to his injury must not only be inferred from all the circumstances of the case, but such negligence is apparent from plaintiff's evidence.

Reversed.

MARLEY V. WHEELWRIGHT.

Supreme Judicial Court of Massachusetts,
February 28, 1899.

A LANDLORD, WHO LET AN ENTIRE TENEMENT, IS NOT LIABLE FOR INJURIES TO A SUB-TENANT, THROUGH DEFECTS IN A STAIRWAY USED AS A COMMON ENTRANCE. EVEN IF THE LEASE REQUIRED HIM TO MAKE REPAIRS, HE WOULD NOT BE LIABLE UNLESS HE HAD NOTICE OF THE DEFECTS.

This was a suit against a landlord by a sub-tenant for injuries to the latter arising from defects in the stairs of the building which were used as a common

entrance to the upper part thereof. The defendant had leased the whole premises to one Pierce, and plaintiff rented a portion of the upperstory from Pierce. There was a judgment in the lower court for the defendant, and the plaintiff appealed.

The court says: The owner, who has let the entire premises, staircases and all, has parted with his control, and is therefore free from this duty of due care, as between him and his tenant, or any sub-tenant. There is no implied warranty that a house is safe and fit for habitation, nor in the absence of any agreement otherwise providing, is the landlord under any obligation to make repairs.

The bill of exceptions recites that "when the tenement was let to plaintiff's son by Pierce there was evidence tending to show * * * that all the outside repairs were to be made by the owner * * * If this is to be taken as sufficient proof that defendant had agreed with Pierce that she would make the outside repairs, it must be implied under the circumstances of this case, that she was to make such repairs only upon reasonable notice. Neither the plaintiff nor her son made any complaint, nor does it appear that Pierce ever did, nor that the defendant knew of negligence in the stairs. Therefore no negligence is shown. She was not in default, as between her and her tenant, or any sub-tenant of his, until after notice. Exceptions overruled.

BRANBLETON WARD.

The Brambleton W. C. T. U. will meet at the residence of Mrs. Watson, South Marshall avenue, at 3:30 o'clock this afternoon.

The many friends of Miss Rosa F. Harwell will regret to learn that she is seriously ill at the home of her father, Rev. R. B. Harwell, No. 200 Clay avenue. Her parents are much concerned about her.

Considerable excitement was created at Spurgeon Memorial Baptist Church Sunday night just at the close of the service by the explosion of a lamp in the pastor's study. The flames were quickly extinguished by Rev. Mr. Christie. The only damage was a hole in the carpet.

The burning of rubbish on a vacant lot on Brambleton avenue about 6:30 o'clock Sunday evening carried the Queen street engine to the scene. The Officers and Teachers' Association of Trinity M. E. Church held an additional monthly meeting last night, and finished hearing reports from the various committees. It was decided to hold the entertainment for the In-gathering of the Gleaners on the 20th of June. A committee was appointed to provide a program of exercises.

Revival services will begin at McKendree M. E. Church Wednesday night.

Mr. T. B. Turner has fitted up his establishment on the corner of Brambleton and Park avenues very handsomely. By the way, this is the central headquarters of the Virginian-Pilot for all news communications and advertisements in Brambleton.

The entertainment of the B. Y. P. U. of Spurgeon Memorial Baptist Church last night was a most delightful treat, the special feature being an address by Rev. Dr. J. P. Barrett, of the Christian Memorial Temple.

Dr. A. Week, manager of the optical department of the Gale Jewelry Company, will examine your eyes free. Defective vision and complicated cases specially invited to call.

ATLANTIC CITY WARD.

A very large congregation attended the fifth anniversary services at Le-Kies Memorial Methodist Church Sunday morning. The music and singing was in harmony with the occasion and the sermon by Rev. W. T. Williams was highly appropriate and interesting. He gave a resume of the rise, growth and progress of the church, which was most gratifying. On Children's Day, when the latent money is turned in, he will be able to make a fine financial exhibit.

Owing to slight indisposition, Rev. Dr. B. D. Tucker did not preach at W. C. T. U. Hall Sunday night. His place was supplied by Rev. John E. Wales. In the absence of Rev. E. E. Dudley, who is attending the Southern Baptist Convention, in Louisville, Ky., his pulpit at Central Avenue Baptist Church was filled by Rev. C. R. Rock, of Richmond College, Sunday morning and night. His sermons were highly spoken of.

The festival and musical and literary entertainment for the benefit of Le-Kies Memorial M. E. Church will take place in the lecture-room to-night at 8 o'clock. A specially interesting program has been specially arranged for the occasion, which will be participated in by some of Norfolk's best talent.

ONE IN EVERY FOUR

One Person in Every Four Suffers From Piles.

About one person in every four suffers from some form of rectal disease. The most common and annoying is itching piles, indicated by warmth, slight moisture and intense, uncontrollable itching in the parts affected. The usual treatment has been some simple ointment or salve which sometimes gives temporary relief, but nothing like a permanent cure can be expected from such superficial treatment. The only permanent cure for itching piles yet discovered is the Pyramid Pile Cure, not only for itching piles, but for every other form of piles, blind, bleeding or protruding. The first application gives instant relief and the continued use for a short time causes a permanent removal of the tumors of the small intestines which cause the intense itching and discomfort of itching piles. Many physicians for a long time supposed that the remarkable relief afforded by the Pyramid Pile Cure was because it was supposed to contain cocaine, opium, or similar drugs, but such is not the case. A recent careful analysis of the remedy showed it to be absolutely free from any such drugs whatever. Sold by druggists at 50 cents per package. my16,18,20

NEWS OF THE COURTS

Big Damage Suit Against the Southern Railway.

Two Suits For Divorce in the Court of Law and Chancery—City Circuit Court—Two Boys in Trouble—Other Matters.

The Court of Law and Chancery was convened yesterday in its May term. No cases were tried. The docket this term is light.

William Simpson qualified to practice law in this court.

DIVORCE SUITS.

The following suits have been entered for divorce: Maggie S. Knight vs. G. S. Knight, Mary Y. Casteen vs. J. T. Casteen, Mollie G. Roberts vs. P. C. Roberts.

CORPORATION COURT.

The greater part of the time in the Corporation Court was taken up by the fight on the condemnation proceedings begun by the city to condemn property for the extension of Tripp street, an account of which appears elsewhere.

Virginia E. Ramsey qualified as guardian of Ashley D. Ramsey, infant, under a bond of \$400, with Theodore N. Ramsey as surety.

Sallie C. James qualified as guardian of Lloyd Stanhope James, Harry O'Neil James, Gertrude Toy James and Alice Leckora James, under a bond of \$2,000, with Claudius L. James as surety.

CITY CIRCUIT COURT.

The Norfolk City Circuit Court reconvened today. This court did not meet yesterday because the attorneys in the case docketed for yesterday agreed to postpone. Chancery cases will be tried this week, and Judge Prentiss will render his decision as to a demurrer to certain evidence in the case of Mrs. Hannah Nelson vs. the city in a \$5,000 damage suit.

IN THE POLICE COURT.

The following cases came before Justice Tomlin and were disposed of as indicated:

Cliff Thomas, colored, assaulting Maggie Robinson, colored; fined \$3. Dave Williams and Vernon Brown, both colored, stealing a \$5 vest from Burk & Co., Main street; thirty days in jail each.

Willie Fisher, colored, drunkenness and fighting; fined \$3.50.

Alex Wych, obtaining a boat under false pretenses from A. G. Burrows and shooting at S. Kahn; held until Wednesday.

G. W. Turner, colored, working horses unit for use; fined \$5.50.

Robert Green, colored, profanity on the street and assaulting an officer; fined \$6.

Charles Radford, begging on the street; ten days in jail.

Rosa Bass, colored, abusing Mary Hill, colored; fined \$3.50.

Wesley Bedings, colored, breaking into a Norfolk and Western freight car; held until May 24th.

E. M. Hurt, colored, drunkenness, resisting arrest and carrying a concealed razor; fined \$20.50.

Joe Spady, colored, burglarizing No. 22 Cumberland street; held until May 25th.

J. Evans, colored, drunkenness and assaulting W. P. Lavender; continued until Wednesday.

UNITED STATES COURT.

Judge Waddill will arrive from Richmond this morning and open the United States Court. Civil business only will be taken up, as the Federal grand jury doesn't meet until June.

TWO YOUTHS PUT UNDER BOND.

Samuel Simpson and William Hoofnagle, Portsmouth boys, charged with stealing from the navy yard, were put under a \$100 bond to appear in the United States Court, by Commissioner George E. Bowden yesterday. The youths were sentenced to jail by Mayor

Hard, of Portsmouth, some time ago, and an appeal was taken to the Hastings Court in that city. Judge Waits, of that court, yesterday morning decided that the case belonged to the United States Court, and dismissed the boys. Deputy United States Marshal West was present and immediately re-arrested them. The June Federal grand jury will take up their case.

\$25,000 DAMAGE SUIT.

Deputy Marshal West yesterday served notice on the general agent of the Southern Railway here, E. T. Lamb, of the \$25,000 damage suit brought against the Southern Railway Company by Charles Swartz, Swartz is a youth, and is now serving as a messenger for the Postal Telegraph Company. He sues for the loss of an arm.

Marriage to Coinjack N. C.

Asbury M. E. Church, Coinjack, N. C., was the scene of a pretty and attractive wedding on the evening of the 11th inst. at 8 o'clock. The contracting parties were Miss Minnie F. Saunders, the bright and winsome daughter of Mr. and Mrs. Saunders, and Mr. W. Thomas Curis, a popular young gentleman of Currituck county.

The bride wore a beautiful white organdy over satin, and carried bride's roses.

The groom was attired in conventional black. The ceremony was impressively performed by Rev. G. H. M. Giles, after which the bridal party returned to the home of the bride's parents, where a handsome reception was tendered them. The presents were numerous, handsome and useful.

For the present Mr. and Mrs. Curis will reside at the home of the bride's parents.

LAMBERT'S POINT.

Dr. Doughile has located here for the practice of medicine. The Ladies' Aid Society of the M. E. Church will give a "Strawberry Social" on the church lawn to-night at 8 o'clock.

Sunday evening, at the residence of Mr. Thomas McCauley, his stepdaughter, Miss Sadie Garrett, was united in marriage to Mr. George Wesley Edmonds. The attendants were: Mr. C. T. Land, of Norfolk, and Miss Willie Edmonds, of Deep Creek, and Mr. C. R. Parker, of Newport News, and Miss Martha Garrett, of Lambert's Point.

The groom is a prosperous young trucker of Deep Creek and the bride is a most estimable young lady of this place.

DEATHS AND FUNERALS.

MISS MARY E. DEY.

The funeral of Miss Mary E. Dey, whose untimely death occurred at St. Vincent's Hospital Saturday morning, was held from Cumberland Street M. E. Church Sunday afternoon at 4:30 o'clock, and was attended by one of the largest congregations seen on a funeral occasion in that church for many years, the auditorium being filled beyond its seating capacity by the friends of the deceased, who gathered here as a mark of respect to her memory.

The funeral of the church was decorated with palms and ferns in commemoration of the solemn event. The floral offerings were numerous and magnificent.

The services were conducted by the pastor, Rev. H. E. Johnson, D. D., assisted by Rev. S. C. Hatcher, of Queen Street M. E. Church; Rev. W. T. Williams, of LeKies Memorial, and Rev. R. H. Earneston, of the Court Street Presbyterian Church, Portsmouth.

Dr. Johnson spoke with pathos and beauty of the deceased, saying that her Christian life was a model one worthy of emulation by all, and that her death was one of the most triumphant vindications of the power of Christ's religion he had ever witnessed. He said that at the hour of 12 o'clock Friday night she sent for him to come to the hospital, and that when he entered the room she took him by the hand and said: "Doctor, of what sweet music I have been hearing. Oh, that I could sing like an Angel!" and she then sang several stanzas of the hymn, "I Am Anchored Safe in the Haven of Rest." During Dr. Johnson's remarks many in the vast audience wept freely. The remains were conveyed to Elmwood Cemetery, followed by a lengthy cortege and hundreds on foot, where the last rites of the church were performed at the grave, and the sleeping dust of her who was loved and admired in life were committed to the silent tomb.

Following were the pall-bearers: Lenwood Nells, Leslie Fine, J. Ashby Williams, Ralph McPherson, Willie Erskine, Eley Branton, Lloyd White and Henry Parsons.

MRS. MARY M. BRENNAN.

The obsequies of Mrs. Mary M. Brennan took place in the grave in Elmwood Cemetery at 5 o'clock Sunday afternoon, and was conducted by Rev. J. P. Barrett, D. D., of Christian Memorial Temple, and Rev. John H. Dickinson, of Emanuel P. E. Church.

MR. CHARLES F. RAMSEY.

The funeral of this gentleman, who departed this life at his residence, No. 225 Main street, Saturday, took place at the grave in Cedar Grove Cemetery at 11 o'clock yesterday morning. The services were conducted by Rev. W. A. Borum, the temporary pastor of Freemason Street Baptist Church.

Southern Baptist Convention—Louisville, Ky.

Delegates and others wishing to attend the above convention, held at Louisville, May 11th to 18th, are requested to communicate at once with the undersigned.

ARTHUR G. LEWIS.

S. P. A. Ballie, and Ohio R. E. (Under Atlantic Hotel.) Norfolk, Va., ap29,ead-191

ALLEGED EMBEZZLER.

WILLIAM FARNESWORTH WANTED IN WASHINGTON, ARRESTED.

William Farnsworth, a white man about forty years old, was arrested last night and is held at the police station for embezzlement in Washington, D. C. There is also a swindling charge against him in Norfolk.

Chief Kizer received a telegram from Washington Sunday asking him to keep a lookout for Farnsworth, who was thought to be coming to Norfolk, or to be here already. A short description was given in the telegram. The telegram was from the superintendent of police in Washington.

Farnsworth arrived in the city, presumably, only a day or two ago. It seems that about the first thing he did in Norfolk was to work a swindling game on a citizen. He was arrested late last night by Detective West, Heppel and Childers, who had secured a photograph of the man wanted in Washington. This photograph was shown Farnsworth, who stoutly denied it was a likeness of himself. The officers, however, considered the likeness convincing proof that they had the right man.

Farnsworth is originally from Wisconsin, and is said to be "an old timer," which, in the vernacular of the police, means a very slick personage, who is onto the ropes and hard to deal with.

Charged With Highway Robbery.

Tom Baker, colored, was arrested yesterday on a warrant charging him with highway robbery in Norfolk county. He is being held for the county authorities.

Valuable Property For Sale.

Special attention is called to the advertisement of Messrs. H. L. Page & Co., real estate agents, No. 22 Bank street, in which they offer bargains in the sale of valuable building lots on Hamilton, Ward, Duncan, Franklin and Martin avenues (West End Land Company) listed at prices ranging from \$150 to \$1,000 on easy payments.



MOTHERS! Mothers! a hot bath with CURT-CURA Soap, when followed by a single application of CURT-CURA Ointment, the great skin cure and purifier of emollients, will afford the most grateful and comforting relief in the severest forms of itching, burning, and itchy skin and scalp humors, rashes, and irritations, and point to a speedy, permanent, and economical cure when all other remedies fail, and even the best physicians fail.

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James D. Mason, Manager Mason Bakery.

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Suffolk, with its suburbs, has a population of about 6,000, and is situated at the head of Nansemond river, which is navigable for vessels drawing fourteen feet of water. The Old Dominion Steamship Company runs a daily line to Norfolk, connecting there with all coastwise steamship lines. There are five trunk-line railroads passing through Suffolk, namely: Norfolk and Western, Seaboard Air-line, Southern, Norfolk and Carolina, and Atlantic and Danville; also, the Suffolk and Carolina, which connects up with Albemarle and Pamlico sounds. There are twenty-six mails a day to and from Suffolk; two telegraph lines—Western Union and Postal; two Telephone Companies—Bell and Nansemond; electric-light plant, perfect system of water-works, with excellent water. Within thirty minutes of Norfolk, and fourteen hours of New York; in fact, have direct and cheap rates for freight and passage to every important city in the United States, making Suffolk one of the best distributing points on the Atlantic Coast for the output of factory or mill, also for procuring raw materials. Coal, coke, iron, lumber of every description, cotton and grain pass through in transit to Europe and the Eastern States. Low rents and an abundant market supply of fish, oysters, poultry, meats and vegetables at reasonable prices. Good schools and churches and a healthy climate. For other information write to

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A large line just received, made in the most desirable styles, Plain, Corded or with one or more rows of inserting, \$1.50, \$1.75, \$2.50, \$2.75, \$3.95 and up to \$6.50.

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